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Bcc: [Boyd, Jocelyn](#)
Subject: PSC Proposed Regulation 103-817.1
Date: Wednesday, April 10, 2019 10:11:00 AM
Attachments: [SC Supreme Court Rule 4 Mark-Up Draft.pdf](#)

Good Morning,

On February 7, 2019, the Commission filed a [Notice of Drafting](#) with the South Carolina Legislative Council. Please find attached for your review a draft of the proposed regulation. If you wish to file comments regarding the proposed regulation, please do so in [Docket No. 2019-59-A](#) by April 24, 2019.

Thank you,

PSC Communications

Proposed Regulation 103-817.1 E-Filing and E-Service

(a) Electronic Filing. The electronic transmission of a document to the E-Filing System in accordance with ~~these Policies and Procedures and the Filer Interface User Guide~~ this Regulation constitutes the filing of that document in accordance with Rule 5(e), SCRCP. Any required filing fees and/or technology fees must be paid for by credit card at the time of submission Title 58 of the South Carolina Code and the Commission's Regulations in Chapter 103 of the South Carolina Code of State Regulations.

(b) Official Record. Where a document is E-Filed, the electronic version of that filing constitutes the official record. E-Filed documents have the same force and effect as documents filed by Traditional means. Documents filed by Traditional means may be converted to electronic format and made part of the electronic record by the ~~Clerk of Court~~ Clerk's Office. Once converted, the electronic version constitutes the official ~~court~~ record. ~~While the Clerk of Court is not required to retain paper copies of documents properly converted to electronic format and made part of the electronic record in accordance with the Clerk of Court Manual, the Clerk of Court may not destroy original wills, original deeds, original contracts, court exhibits, or any other documents required by law or ordered by the court to be maintained in original form.~~

(c) Timeliness. A document transmitted and received by the E-Filing System on or before 11:59:59 p.m., Eastern Standard Time, shall be considered filed with the ~~Clerk of Court~~ Commission on that date, provided it is subsequently accepted by the ~~Clerk of Court~~ Commission. ~~Except as provided in Section 9, nothing~~ Nothing in these Policies and Guidelines this Regulation should be construed to reduce or extend any filing or service deadlines set by statute, the South Carolina Rules of Civil Procedure, or orders of the ~~court~~. Commission except requests for extensions of time to file documents which such requests must be filed with and approved by the Commission.

The following section is being deleted because the acceptance and rejection of filings is already addressed in S.C. Code Ann. Regs. 103-817. Proceedings.

~~**(d) Clerk Review.** The Clerk of Court shall promptly review an Electronic Filing to determine whether it conforms to applicable filing requirements.~~

~~**(1) Acceptance.** If the Clerk of Court accepts the document, the document shall be considered filed with the court at the time the original submission to the Electronic Filing System was complete in accordance with paragraph (c) of this Section, and the Electronic Filing System will affix the date and time of receipt to~~

~~the document. Upon acceptance, the Electronic Filing System will issue a confirmation with the date and time of the original submission. If the filing initiates a case, the Clerk shall assign a case number.~~

~~(2) **Rejection.** If the Clerk of Court rejects the document, the document shall not become part of the court record. The Clerk of Court will notify the E-Filer of the rejection and the reason for rejection, which the E-Filer may access in the E-Filing System under the "My Filings" Tab. In the event an NEF was transmitted at the time of submission, a new NEF will be sent to all E-Filers in the case informing them that the document was rejected by the Clerk of Court, and the previous NEF shall not be effective as proof of service.~~

(d) "Notice of Electronic Filing" or "Notification of Electronic Filing"
("NEF") is a notice automatically generated by the E-Filing System at the time of a filing or other court Commission action. An NEF is transmitted by email to all Authorized E-Filers who have appeared filed a Notice of Appearance and been entered by the clerk as are counsel of record in the case and includes a description of the filing and a list of parties to whom the NEF was transmitted.

(e) Electronic Service.

(1) Electronic Service of Process not Authorized. Service of process or service of any pleadings initiating cases cannot be accomplished through the E-Filing System. The E-Filing System may not be used for service of process of a summons and complaint, subpoena, or any other pleading or document required to be personally served under Rule 4, SCRCP (South Carolina Rules of Civil Procedure).

(2) Automatic Service of Other Papers on Authorized E-Filers by the E-Filing System. Except as provided in sub-paragraphs (A) and (B) below, upon the E-Filing of any pleading, motion, or other paper subsequent to the summons and complaint or other filing initiating a case, the E-Filing System will automatically generate and transmit an NEF to all Authorized E-Filers associated with that case. Where the parties are proceeding in the E-Filing System and a pleading, motion, or other paper must be filed, made, or served under the Commission's statutes or regulations or the SCRCP, upon the filer's receipt of a confirmation email stating that the filing has been accepted for processing by the Commission, the E-Filing of that pleading, motion, or other paper, together with the transmission of an NEF, constitutes proper service under Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations, as to all other parties who are E-Filers in that case. It is the responsibility of an E-Filer to review the content of the E-Filed document in the E-Filing System to determine its force and effect.

(A) No NEF will be created at case initiation; however, the E-Filing System will transmit confirmations of receipt and acceptance of the filing.

(B) NEFs are only transmitted via email to ~~Authorized E-Filers who are counsel of record—representatives of parties of record~~. E-Filers should follow the ~~instructions in the E-Filer User Guide and other training materials—~~comply with Commission Regulation 103-805 (Representation) for entering an electronic notice of appearance when making an initial responsive filing in a case that was initiated via the E-Filing System ~~and for accessing NEFs in the E-Filing System~~.

(3) Service Complete Upon E-Filing. Service of a pleading, motion, or other paper by NEF subsequent to the summons and complaint or other filing initiating a case is complete at the time of the submission of the pleading, motion, or other paper for E-Filing, provided an NEF is transmitted by the E-Filing System in accordance with paragraph (e)(2) of this Section. The act of E-Filing the pleading, motion or other paper is the equivalent of depositing it in the United States Mail under Rule 5(b)(1), SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations. The NEF constitutes proof of service under Rule 5(b), SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations, and the date of service shall be the date stated in the NEF as the "Official File Stamp." Where notice of the filing of a pleading, motion, or other paper is served by an NEF, the E-Filer need not file proof of service, but the E-Filer must retain a copy of the NEF as proof of service.

The following section is amended to comply with the North Carolina Utilities Commission Rule R1-27. Computation of Time.

(4) Time to Respond Following Electronic Service. Computation of the time for a response after service by NEF is governed by Rule 6, SCRCP. ~~In accordance with Rule 6(e), SCRCP, service by electronic means via an NEF is treated the same as service by U.S. Mail for purposes of determining the time to respond; therefore, five days shall be added to the prescribed period to respond from the date set forth in the Official File Stamp on the NEF~~ Title 58 of the South Carolina Code and the South Carolina Code of State Regulations.

(5) Service By or Upon a Party Who is Not an E-Filer in a Case.

(A) E-Filed motions, pleadings, or other papers that must be served upon a party who is not represented by an Authorized E-Filer in the case or who is a Traditional Filer must be served by a Traditional Service method in accordance with Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations. An Authorized E-Filer who has E-Filed a motion, pleading, or other paper prior to service of the pleading, motion, or other paper shall serve a paper copy of the corresponding NEF on the Traditional Filer(s). The Authorized E-Filer must also file proof of Traditional Service as to all other parties who are Traditional Filers.

(B) Traditional Filers must continue to serve all parties with a paper copy of the pleading, motion, or other paper by a Traditional Service method in accordance with Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations, and file a copy of the pleading, motion, or other paper with the ~~Clerk of Court~~ Commission, together with proof of service, as required by Rule 5(d), SCRCP, Title 58 of the South Carolina Code and Chapter 103, Article 8 of the South Carolina Code of State Regulations.

(6) Failed Transmission of NEF. If an Authorized E-Filer becomes aware that the NEF was not transmitted successfully to other Authorized E-Filers in the case, or that the NEF is deficient, the Authorized E-Filer shall, upon learning of the failure or deficiency, serve the E-Filed document by email, hand delivery, facsimile, or first class mail. Proof of such service shall be E-Filed with the Commission within one business day of service.